

IN THE UNITED STATES NORTHERN DISTRICT COURT OF GEORGIA

SIRDORVA JOHNSON

NO. _____

Plaintiff, v.

COMPLAINT

(Personal Injury - Product Liability)

KOBAYASHI HEALTHCARE

INTERNATIONAL, INC., INC., a Georgia
corporation; d/b/a/ HOTHANDS, AMAZON,
INC., a Delaware corporation,

Defendants.

Plaintiff respectfully files her Complaint against Defendants, as follows.

PARTIES

1. Sidorva Johnson, DOB 07/22/1969, an adult woman of sound mind, was at all times material hereto a resident of Peach County, Georgia.
2. Defendant Amazon. (“Amazon”) is a Delaware corporation with a principal place of business at 702 SW 8th Street, Bentonville, Arkansas 72716-8611. The Georgia Secretary of State lists the registered agent of Amazon as Michael P. Marshall with an address of 1180 W. Peachtree Street NW, Suite 2100,

Atlanta, GA, 30309. At all-time material hereto, it marketed and sold a product known as “Hothands Toe Warmers” (“Hothands”).

3. Defendant KOBAYASHI HEALTHCARE INTERNATIONAL, INC., Inc. is a Georgia corporation with its primary place of business located at 245 Kraft Drive, Dalton, GA 30721. The Georgia Secretary of State lists the registered agent as Michael P. Marshall with an address of 1180 W. Peachtree Street NW, Suite 2100, Atlanta, GA, 30309. At all times KOBAYASHI HEALTHCARE INTERNATIONAL, INC. designed, manufactured, marketed, and sold the KOBAYASHI HEALTHCARE INTERNATIONAL, INC. product known as “Toewarmers.”

JURISDICTION

4. Jurisdiction is proper in this Court under 28 U.S.C. § 1332(a)(1). Plaintiff is a resident of Georgia and the events at issue occurred in Georgia. Defendants are corporations incorporated in other states, with their primary place of business in other states. The amount in controversy exceeds the jurisdictional minimum.

5. The minimum contacts required by *International Shoe Co. v. Washington*, 326 U.S.310 (U.S. 1945) and its progeny are easily satisfied here. Both Defendants do substantial amounts of business in Georgia and have for many years. Defendant Amazon has numerous warehouses and distribution centers located in Georgia, as well as one the most sophisticated websites and delivery systems. Defendant KOBAYASHI HEALTHCARE INTERNATIONAL, INC. is headquartered in Dalton, Georgia and

actively generates hits, calls, sales, income and consummates numerous transactions within Georgia.

VENUE

5. Venue is proper under 28 U.S.C. § 1391(b)(2) and/or (b)(3).

GENERAL ALLEGATIONS

7. KOBAYASHI HEALTHCARE INTERNATIONAL, INC. manufactures Hothands and Amazon sells the product. Hothands is a toe warmer product that advertises itself on the front of its package as a “safe, natural heat.” In fact, it can reach 158 degrees Fahrenheit or higher and has a history of causing severe burns. Unlike, for instance, a space heater, a stove or a barbecue grill, the product is not supposed to reach temperatures which cause contact burns; it is only advertised as providing comforting warmth to extremities.

8. In 2000, KOBAYASHI HEALTHCARE INTERNATIONAL, INC. became aware that one of their related products, Hothands, propensity to cause burns when they were sued in Chattanooga, Tennessee by Pamela Goodman. A year later, Jesse Gilbert sued for burns in Ft. Wayne, Indiana. Five years later, Harold Huff sued for burns in Andover, Massachusetts. Three years later, Earlene Goins sued for burns in Indianapolis. Mark Cross brought a similar suit in Wichita and Gerald Tolve sued in Nutley, New Jersey, both in 2010. Two years later, Rose Marie Coppola brought suit in Frederick, Maryland. In 2014, Stephanie Brigham sued in Arizona for burns suffered because of using Hothands. In addition, there were numerous customer complaints and additional state court suits. KOBAYASHI HEALTHCARE INTERNATIONAL, INC. has failed to

take steps to make the products Hothands and Toewarmers safer but continues to sell the product through various commercial outlets including Amazon.

10. The Plaintiff Sidorva Johnson (DOB 07/22/1969), an educator, began using ToeWarmers in 2021 while working football games. . Her job required her to stand in the reserve section to check tickets. She read the instructions and applied the ToeWarmers in the proper manner. She later began to wear them at work for comfort and when she was required to be exposed to concrete floors. Originally, she purchased the ToeWarmers from Walmart, but they could not keep them in stock. Therefore, the Plaintiff bought a box of 40 ToeWarmers from Amazon. (See Exhibit 1-Amazom Purchase Order). On October 19, the Plaintiff wore the Toewarmers and the product malfunctioned and caused second degree burns as evidenced by treatment at Houston Healthcare. (Exhibit 2—Derrick Lane, MD Letter dated March 7, 2023

CAUSES OF ACTION

COUNT ONE - NEGLIGENT DESIGN (KOBAYASHI HEALTHCARE INTERNATIONAL, INC. AND AMAZON)

12. Plaintiff repeats the allegations as if set forth herein.

13. Defendant KOBAYASHI HEALTHCARE INTERNATIONAL, INC. manufactured, and Defendant Amazon sold a product which fell below the standard of care for product design. This failure to meet the standard of care includes but is not limited to, designing a product whose sole purpose is to provide comforting warmth to extremities in such a way that on many occasions, it has inflicted severe burns on users' extremities when used in a foreseeable manner. It would have been easy to design the product so that it became warm, without becoming hot enough to inflict second degree burns. Said breach of the standard of care proximately caused damage to Plaintiff.

COUNT TWO - NEGLIGENT WARNINGS AND INSTRUCTIONS

(KOBAYASHI HEALTHCARE INTERNATIONAL, INC. and AMAZON)

14. Plaintiff repeats the allegations as if set forth herein.
15. Defendant KOBAYASHI HEALTHCARE INTERNATIONAL, INC. manufactured, and Defendant Amazon sold a product whose warnings fell below the standard of care. While an internal page of the KOBAYASHI HEALTHCARE INTERNATIONAL, INC. web site states that the product should not be in direct contact with the skin, nothing on the product, including the instructions and warnings, states this. The front of the package prominently states that the product provides safe heat and even the more specific warnings in small type on the back do not describe or warn of the injuries that can and did occur here where all of the toes of the Plaintiff were severely burned and scarred.

16. The failure to meet the standard of care proximately caused severe damage to the Plaintiff.

COUNT THREE - STRICT LIABILITY: DESIGN DEFECT

(KOBAYASHI HEALTHCARE INTERNATIONAL, INC. and AMAZON)

17. Plaintiff repeats the allegations as if set forth herein.
18. Defendant KOBAYASHI HEALTHCARE INTERNATIONAL, INC. and Defendant Amazon designed, manufactured, and sold a defective and unreasonably dangerous product into the stream of commerce, specifically the Hothands ToeWarmers at issue. Said product's harmful characteristics and consequences outweigh the benefits of its design, specifically its regularly heating to temperatures sufficient to cause second degree burns, when it is only sold as a product providing comforting warmth.
19. It would have been technologically and financially feasible to have designed an acceptably safe, non-defective product and this was known at the time of design.

20. Said defects proximately caused Plaintiff's severe damages.

COUNT FOUR - STRICT LIABILITY: INFORMATION DEFECT

(KOBAYASHI HEALTHCARE INTERNATIONAL, INC. and AMAZON)

21. Plaintiff repeats the allegations as if set forth herein.

22. Defendants had actual knowledge that foreseeable uses of the product it was designing, manufacturing, marketing and/or selling into the stream of commerce were unreasonably dangerous and failed to provide adequate warnings and instructions for safe use.

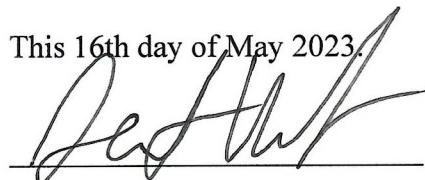
23. Said failure proximately caused severe damages to Plaintiff.

PRAYER FOR RELIEF

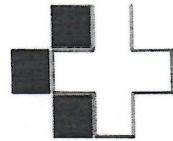
WHEREFORE, Plaintiff respectfully requests that the Court grant her judgment against Defendants for:

- A. Compensatory and punitive damages in the amount of \$10,000,000.
- B. Costs.
- C. Post judgment interest on all sums and any other relief that the Court sees fit to grant.

This 16th day of May 2023.



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The Wimbish Law Firm
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(770) 707-6555
E-mail: dexterwimbish@bellsooth.net
Attorney for Plaintiff



HOUSTON HEALTHCARE

Perry Wound Healing Center
1118 Morningside Drive Suite A
Perry, GA 31069
478-218-1420
478-975-6340

March 7, 2023

To Whom It May Concern:

Ms. Sidorva Johnson attended appointments at the Perry Wound Healing Center from the following dates: November 1, 2022 through February 7, 2023. Patient was treated for second degree burns to feet from use of toe warmers.

Patient was treated with antibiotics (October 19, 2022) and topical treatments. Patient was healed and discharged February 7, 2023.

Thank you.



Derrick Lane, MD

Perry Wound Healing Center

Medical Record #
Date of Birth
SSN

View order details

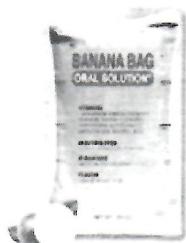
| | |
|-------------|---------------------|
| Order date | May 14, 2022 |
| Order # | 112-8711561-4349841 |
| Order total | \$82.77 (3 items) |

Shipment 1 of 2

FREE Prime Delivery

Shipped

May 16, 2022



**Banana Bag Oral
Solution: Electrolyte
& Vitamin Powder
Packet for...**

Qty: 1

Sold By: Banana Bag Solutions LLC



**HotHands Toe
Warmers 40 Pair**

Qty: 1

c i s i n i l u c v w a i l l n i l

40 Pair

 Share this item



Buy it again

<

Need help with your item?

Get product support

>

How's your item?

Billing Address

103 CRESTHAVEN CT
BYRON, GA 31008-6095

Shipping address

Sidorva L Johnson
103 CRESTHAVEN CT
BYRON, GA 31008-6095
United States

Order Summary

Items:

Shipping & Handling:

\$81.38

\$0.00

FREE Prime Delivery

Shipped

May 16, 2022



\$9.99

**50 PCS Black
Disposable Face
Masks 3-Ply Filter
Earloop Mouth
Cover,...**

Qty: 1

Sold By: PM Performotor

Payment information

**Payment Method
Visa ending in 6091**

Deliver to Dexter
Grinn 30223

All ▾ toewarmer

Hello, Dexter
Account & Lists ▾
>Returns & Orders

0

All Clinic Buy Again Prime ▾

Groceries ▾

Coupons

Household, Health & Baby Care

Subscribe & Save

Livestreams

Save on books with RePass

1-48 of 530 results for "toe warmer"

Sort by: Featured

Amazon Prime

YAHAVA

Play electric heated socks for men women

Shop yahava ▾

Delivery Day

Get It by Tomorrow

Department

Camping Hand Warmers & Foot Warmers

Camping Foot Warmers

Camping Hand Warmers

Shoe Inserts & Insoles

Shoe Insoles

Clothing, Shoes & Jewelry

Hot & Cold Therapies

Heating Pads

Customer Reviews

& Up

& Up

& Up

& Up

Brands

HotHands

Little Hotties

Meister

Sports & Outdoor Price

Up to \$25

\$25 to \$50

\$50 to \$100

\$100 to \$200

\$200 & above

\$ Min

\$ Max

Go

YAHAVA Electric Heated Socks for Men Women 5000mAh Rechargeable Battery

47

YAHAVA Electric Heated Socks for Men Women 5000mAh Rechargeable Battery

47

YAHAVA Electric Heated Socks for Men Women 5000mAh Rechargeable Battery

47

Sponsored

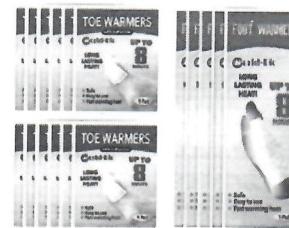
Showing results for toe warmer

Search instead for toewarmer

Results

Price and other details may vary based on product size and color.

Amazon's Choice



+8 colors/patterns

Sponsored

Toe Warmers (45 Pairs) - Up to 10 Hours of Heat, Easily Apply with Adhesive - Ultra Thin, Easy, All Natural - Air...

663

\$34⁹⁹ List: \$39.99

One-Day

FREE delivery Tomorrow, May 17

Small Business

Sponsored

World-BIO Toe Warmers Adhesive 10/20/30/40 Pairs - Long Lasting Safe Natural Odorless Air Activated...

1,599

\$13⁸⁰ List: \$18.80

Save 10% with coupon (some sizes/colors)

One-Day

FREE delivery Tomorrow, May 17

\$14⁸⁰One-Day
FREE delivery Tomorrow, May 17

Deals & Discounts

All Discounts

Today's Deals

Business Type

Small Business

Battery Description

Lithium

Lithium-Ion

Lithium-Polymer

Subscription Options

Subscribe & Save Eligible

International Shipping

International Shipping Eligible

Condition

Collectible

New

Used

Availability

Include Out of Stock



+4 colors/patterns

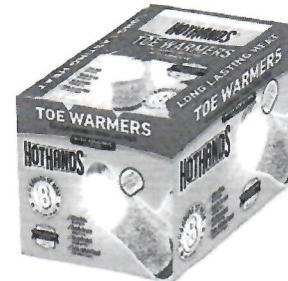
Sponsored

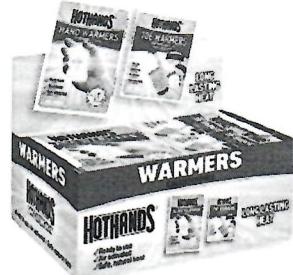
HotHands Toe Warmers 40 Pair

9,189

HotHands Toe Warmers 20 Pair

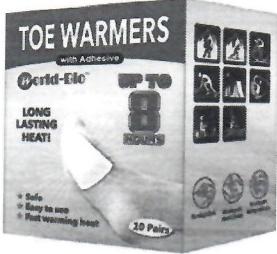
5,745



| | | |
|---|--|---|
| World-BIO Toe Warmers Adhesive 7/10/12/15 Pairs - Long Lasting Safe Natural Odorless Air Activated... 131 | \$33 ⁸⁶ One-Day FREE delivery Tomorrow, May 17 More Buying Choices \$22.08 (31 used & new offers) | \$21 ⁴³ List: \$31.90 One-Day FREE delivery Tomorrow, May 17 More Buying Choices \$18.95 (26 used & new offers) |
| \$11⁸⁰ List: \$15.99 One-Day FREE delivery Tomorrow, May 17 | | |
|  |  |  |
| HotHands Toe Warmers - Long Lasting Safe Natural Odorless Air Activated Warmers - Up to 8 Hours of Heat - 6 Pair 4,533 | Toe Warmers (45 Pairs) - Up to 10 Hours of Heat, Easily Apply with Adhesive - Ultra Thin , Easy, All Natural - Air... 663 | HotHands Hand & Toe Warmers - Long Lasting Safe Natural Odorless Air Activated Warmers - 24 pair hand... 8,589 |
| Sponsored \$8⁷¹ Was: \$9.72 One-Day FREE delivery Tomorrow, May 17 More Buying Choices \$7.95 (29 new offers) | \$34⁹⁹ List: \$39.99 One-Day FREE delivery Tomorrow, May 17 Small Business More Buying Choices \$28.69 (6 used & new offers) | \$23⁰⁰ One-Day FREE delivery Tomorrow, May 17 More Buying Choices \$18.77 (13 used & new offers) |

Highly rated

Sponsored | Based on star rating and number of customer ratings

| | | |
|--|--|--|
|  |  |  |
| Toe Warmers (45 Pairs) - Up to 10 Hours of Heat, Easily Apply with Adhesive - Ultra Thin , Easy, All Natural - Air... 663 | World-BIO Toe Warmers Adhesive 10/20/30/40 Pairs - Long Lasting Safe Natural Odorless Air Activated... 1,599 | Hot Sockee - Neoprene Toe Warmers - Worn Inside Shoes or Boots - 3 Sizes - Cycling, Hiking, Winter Sports,... 2,003 |
| \$34⁹⁹ List: \$39.99 FREE One-Day Small Business | \$13⁸⁰ List: \$18.99 Save 10% with coupon (some sizes/colors) FREE One-Day | \$14⁹⁹ Small Business |